



General Assembly

Substitute Bill No. 1341

January Session, 2001

AN ACT CONCERNING PATIENT AND RESIDENT ABUSE IN HEALTH CARE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) As used in sections 1 to 4, inclusive, of this act,
2 section 17b-451 of the general statutes, as amended by this act, and
3 sections 6 and 7 of this act:

4 (1) "Resident" means any person who resides in a care facility.

5 (2) "Patient" means any person who receives treatment from a care
6 facility.

7 (3) "Care facility" means any hospital, skilled nursing facility,
8 intermediate care facility, chronic and convalescent care facility, rest
9 home, care facility for the mentally retarded, psychiatric facility,
10 rehabilitation facility, kidney disease treatment center, home health
11 agency, ambulatory surgical or out-patient facility, home for the aged
12 or disabled, group home, adult foster care home, private home that
13 provides personal, sheltered or nursing care for one or more persons,
14 adult day care center and any other health or resident care related
15 facility or home, whether publicly or privately funded.

16 (4) "Abuse" means any act or omission that causes, or is likely to
17 cause, harm to a resident or patient, including, but not limited to:

18 (A) Any assault, as defined in sections 53a-59 to 53a-61a, inclusive,
19 of the general statutes;

20 (B) A pattern of conduct that causes, or that is likely to cause,
21 physical injury or serious physical injury to a patient or resident,
22 except when such conduct is a part of the treatment and care and in
23 furtherance of the health and safety of the patient or resident;

24 (C) A pattern of conduct that causes, or is likely to cause,
25 psychological injury to a patient or resident, except when such conduct
26 is a part of the treatment and care, and in furtherance of the health and
27 safety of the patient or resident;

28 (D) The failure to provide treatment, care, goods or services
29 necessary to the health, safety or welfare of a patient or resident; or

30 (E) The use of a physical or chemical restraint, medication or
31 isolation as punishment, out of convenience, as a substitute for
32 treatment, in conflict with a physician's order or in quantities that
33 preclude or inhibit the effective care of a patient or resident.

34 (5) "Knowingly" means "knowingly", as defined in subdivision (12)
35 of section 53a-3 of the general statutes.

36 (6) "Recklessly" means "recklessly", as defined in subdivision (13) of
37 section 53a-3 of the general statutes.

38 (7) "Physical injury" means impairment of physical condition or
39 pain.

40 (8) "Psychological injury" means psychological harm that causes
41 mental or emotional incapacitation resulting in severe physical
42 symptoms that require psychological or psychiatric care.

43 (9) "Serious physical injury" means physical injury which creates a
44 substantial risk of death, or which causes serious disfigurement,
45 serious impairment of health or serious loss or impairment of the
46 function of any bodily organ.

47 (10) "Person" means any natural person, corporation, partnership,
48 limited liability company, unincorporated association, other business
49 entity or labor organization.

50 Sec. 2. (NEW) (a) A person is guilty of patient or resident abuse in
51 the first degree when such person knowingly commits abuse of a
52 patient or resident and causes serious physical injury to such patient or
53 resident.

54 (b) Patient or resident abuse in the first degree is a class B felony.

55 Sec. 3. (NEW) (a) A person is guilty of patient or resident abuse in
56 the second degree when such person: (1) Knowingly commits abuse of
57 a patient or resident and causes physical injury or psychological injury
58 to such patient or resident, or (2) recklessly commits abuse of a patient
59 or resident and causes serious physical injury to such patient or
60 resident.

61 (b) Patient or resident abuse in the second degree is a class C felony.

62 Sec. 4. (NEW) (a) A person is guilty of patient or resident abuse in
63 the third degree when such person recklessly commits abuse of a
64 patient or resident and causes physical injury or psychological injury
65 to such patient or resident.

66 (b) Patient or resident abuse in the third degree is a class D felony.

67 Sec. 5. Section 17b-451 of the general statutes is repealed and the
68 following is substituted in lieu thereof:

69 (a) Any physician or surgeon licensed under the provisions of
70 chapter 370, any resident physician or intern in any hospital in this
71 state, whether or not so licensed, any registered nurse, any nursing
72 home administrator, nurse's aide or orderly in a nursing home facility,
73 any person paid for caring for a patient in a nursing home facility, any
74 staff person employed by a nursing home facility, any patients'
75 advocate and any licensed practical nurse, medical examiner, dentist,
76 optometrist, chiropractor, podiatrist, social worker, clergyman, police

77 officer, pharmacist, psychologist or physical therapist, who has
78 reasonable cause to suspect or believe that any elderly person has been
79 abused, neglected, exploited or abandoned, or is in a condition which
80 is the result of such abuse, neglect, exploitation or abandonment, or
81 who is in need of protective services, shall within five calendar days
82 report such information or cause a report to be made in any reasonable
83 manner to the Commissioner of Social Services or to the person or
84 persons designated by the commissioner to receive such reports. [Any
85 person required to report under the provisions of this section who fails
86 to make such report shall be fined not more than five hundred dollars.]
87 The Commissioner of Social Services shall report such information
88 within five calendar days to any authorized representative of the Chief
89 State's Attorney.

90 (b) Such report shall contain the name and address of the involved
91 elderly person, information regarding the nature and extent of the
92 abuse, neglect, exploitation or abandonment, and any other
93 information [which] that the reporter believes might be helpful in an
94 investigation of the case and the protection of such elderly person.

95 (c) Any other person having reasonable cause to believe that an
96 elderly person is being, or has been, abused, neglected, exploited or
97 abandoned, or who is in need of protective services may report such
98 information in any reasonable manner to the commissioner or [his] the
99 commissioner's designee.

100 (d) Any person who makes any report pursuant to sections 17b-450
101 to 17b-461, inclusive, or who testifies in any administrative or judicial
102 proceeding arising from such report shall be immune from any civil or
103 criminal liability on account of such report or testimony, except for
104 liability for perjury, unless such person acted in bad faith or with
105 malicious purpose.

106 (e) For the purposes of sections 17b-450 to 17b-461, inclusive, the
107 treatment of any elderly person by a Christian Science practitioner, in
108 lieu of treatment by a licensed practitioner of the healing arts, or the

109 refusal of treatment for religious reasons shall not of itself constitute
110 grounds for the implementation of protective services.

111 (f) No person shall terminate, demote, reject for promotion or
112 otherwise punish an employee who, acting in good faith, makes any
113 report pursuant to sections 17b-450 to 17b-461, inclusive, or who
114 testifies in any administrative or judicial proceeding arising from such
115 report, except an employee that abuses, exploits, neglects or abandons
116 a patient or resident.

117 (g) No patient or resident shall be involuntarily transferred or
118 discharged or otherwise punished for making any report pursuant to
119 sections 17b-450 to 17b-461, inclusive, or for testifying in any
120 administrative or judicial proceeding arising from such report.

121 (h) Any person who violates subsection (a) of this section shall be
122 guilty of a class A misdemeanor.

123 Sec. 6. (NEW) (a) No person shall knowingly:

124 (1) Attempt, with or without threats or promises of benefit, to
125 induce a person to fail to report an incident of abuse, as defined in
126 section 1 of this act, exploitation, neglect, abandonment or other
127 criminal offense pursuant to section 17b-451 of the general statutes, as
128 amended by this act;

129 (2) Fail to report an incident of abuse, exploitation, neglect,
130 abandonment or other criminal offense after another person indicates a
131 reliance on such reporting pursuant to section 17b-451 of the general
132 statutes, as amended by this act; or

133 (3) Without authorization, alter, destroy or render unavailable a
134 report made by another person pursuant to section 17b-451 of the
135 general statutes, as amended by this act.

136 (b) A violation of this section shall be a class B misdemeanor.

137 Sec. 7. (NEW) (a) For purposes of this section, "license" means a

138 license, certification or permit to engage in a profession or occupation
139 regulated pursuant to the general statutes and "licensing authority"
140 means any board, commission, department or official with authority to
141 issue a license.

142 (b) Whenever a person holding a license is convicted of a violation
143 of section 2, 3, 4 or 6 of this act or section 17b-451 of the general
144 statutes, as amended by this act, the clerk of the court shall transmit a
145 certificate of conviction to the appropriate licensing authority.

146 (c) The licensing authority shall suspend or revoke the license of
147 such person for any period or permanently revoke the license of such
148 person, except that: (1) In the case of a person convicted of a violation
149 of section 2, 3 or 4 of this act, the period of suspension shall be not less
150 than three years, (2) in the case of a person convicted of a violation of
151 section 17b-451 of the general statutes, as amended by this act, the
152 period of suspension shall be not less than one year, and (3) in the case
153 of a person convicted of a violation of section 6 of this act, the period of
154 suspension shall be not less than six months.

155 (d) Each care facility, as defined in section 1 of this act, shall post in
156 a prominent location the reporting requirement established by section
157 17b-451 of the general statutes, as amended by this act. All employees,
158 owners, operators and health care providers who provide services in a
159 care facility shall be required to sign a form prescribed by the
160 Department of Public Health acknowledging such reporting
161 requirement. Such care facility shall retain such forms. Any care
162 facility that violates the provisions of this subsection shall be subject to
163 a civil penalty in an amount not exceeding seven thousand five
164 hundred dollars.

165 Sec. 8. Section 53-20 of the general statutes is repealed and the
166 following is substituted in lieu thereof:

167 Any person who tortures, torments, cruelly or unlawfully punishes
168 or wilfully or [negligently] recklessly deprives any person of necessary
169 food, clothing, shelter or proper physical care; and any person who,

170 having the control and custody of any child under the age of sixteen
171 years, in any capacity whatsoever, maltreats, tortures, overworks,
172 cruelly or unlawfully punishes or wilfully or [negligently] recklessly
173 deprives such child of necessary food, clothing, or shelter shall be
174 fined not more than five hundred dollars or imprisoned not more than
175 one year or both.

AGE *Joint Favorable Subst. C/R* JUD

JUD *Joint Favorable Subst.*

HS *Joint Favorable*